

REMARKS

In the Office Action, claims 2, 4, 5, 7 and 10-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barri (U.S. Publ. No. 2005/0014563) in view of Petrovich (U.S. Publ. No. 2004/0147270).

Independent method claim 7 has been amended to include the additional step of direct single-step selection and display of a media file being effected via imposed offset addressing.

Support for the amendment is provided by reference to the specification as originally filed at page 24, line 16 - page 25, line 2, and at page 26, line 15 - page 31, line 5.

The Applicant respectfully seeks withdrawal of the presently raised objections in view of the above amendment and submissions outlined below.

Summary of Arguments

It is respectfully submitted that the inventions recited in at least independent claims 2 and 7 are nonobvious in view of Barri and Petrovich in combination based on the following reasons:

- (i) Petrovich would not be considered by a person of ordinary skill in the art to be a relevant document in seeking to address the problem

at hand, and, a person of ordinary skill in the art would not be motivated to combine its teachings with that of Barri; and

(ii) Even if the teachings in Petrovich were combined with the teachings in Barri, the combination does not teach all features recited in at least independent claims 2 and 7.

(i) Petrovich would not be considered by a person of ordinary skill in the art to be a relevant document in seeking to address the problem at hand, and, a person of ordinary skill in the art would not be motivated to combine its teachings with that of Barri;

Petrovich is directed towards a communication device identification system and method for use in the field of m-commerce.

In particular, it is evident from a reading of Petrovich (especially, paragraphs [0003], [0031], [0038] and Fig. 6] that the object of the communication system is to facilitate exchange of data (i.e. embodied by transmitted “dataforms” between multiple users (e.g. customers in a department store or supermarket environment) and a central server whereby the central server is then able to deliver timely and relevant marketing messages to targeted customers based upon, for instance, the contents of the customer’s basket, the customer’s purchase history

and/or the location of the customer in the store as reflected in the data transmitted from the customer's communication device to the central server at any given time.

Whilst Petrovich is a real-time system involving timely delivery of targeted marketing messages to customers at the point-of-decision or point-of-sale in response to data transmitted to the central server from communication devices in the customers' possession, it would be readily apparent to a person of ordinary skill in the art that there are considerable differences between the technical disclosure and objectives of Petrovich in contrast to the present invention which would not result in it being considered relevant, let alone considered appropriate to be combined with Barri to address the problem at hand - that is:

- (i) Petrovich is not concerned with resolving which infrared wireless signal (e.g. which "dataform") transmitted from a customer communication device is received first by the central server for processing.

In fact, this is readily evident by a total lack of any teaching or suggestion whatsoever of a means for resolving a "first" communication device to transmit an infrared wireless signal in Petrovich.

Moreover, the stated objectives of Petrovich are concerned with delivery of appropriately targeted marketing data to customers based upon an analysis of the content of the customer's basket, prior purchasing history, proximity within a store and so on. It is not ultimately concerned as to whether or not the first communication device to transmit a wireless signal is responded to first or second or last by delivery of a targeted marketing message from the central server as this does not materially affect the operation of the invention in meeting its intended objectives as the message will still have the desired effect of influencing the customer's purchasing behavior.

Based on a reading of Petrovich, a person of ordinary skill in the art would also recognize that in some instances, it may not even be appropriate for the central server to respond to the first transmitted wireless signal given that different dataforms may require different processing durations depending upon such factors as the magnitude of the contents of the customer basket, and, the complexity of the purchase history of each customer. Accordingly, in each case, the processing and response time of the central server may differ in order for the server to appropriately process and deliver an appropriate and

relevant targeted message to each particular customer. Thus, the determination of which communication device of a customer has been the first to transmit an infrared wireless signal to the central server is clearly not an overriding objective of Petrovich.

Turning briefly to the concurrently cited Barri document, and as mentioned in response to the previous Office Action, whilst Barri does teach a means for resolving near simultaneous transmission of signals from remote controls (36a,36b), the invention of Barri is only effective in a wired transmission (and not infrared wireless signals) as described in paragraphs [0033] to [0035] and with reference to Fig. 4 because the "buzz in" signals that are transmitted to the communication subsystem (34) from the remote controls (36a,36b) are command signals that are ordinarily used to control operation of the DVD player. That is, the simultaneously transmitted infrared signals will be received by the DVD player (24) either at the same time or slightly before receiving a command signal from the communication subsystem (34) so as to give rise to premature and/or unpredictable operation by the DVD player (24). Furthermore, because the "buzz in" signals are infrared signals, they are prone to

collision and distortion in the medium of space and not only would the communication subsystem be unable to properly resolve the collided and distorted infrared wireless signals, but also, the DVD player would also operate unpredictably due to this distortion.

Hence, Petrovich does not teach a means of resolving near simultaneous transmission of infrared wireless signals at all as it is not an objective of the invention. Nor is there any teaching or suggestion readily apparent in Petrovich as to why Petrovich would be modified or combined with another invention (such as Barri) so as to incorporate such a means of resolving near simultaneous transmission of wireless signals.

Even if Petrovich were combined with Barri, as stated above and in response to the previous Office Action, the means of resolving near simultaneous transmission of signals as taught in Barri is entirely different to that of the presently claimed invention, and, would not be capable of functioning in the same manner as the presently claimed invention in resolving near simultaneous transmission of infrared wireless signals.

(ii) It is stated in the Petrovich document (i.e. at para [0031]) that

“dataforms” may be embodied by way of bar codes, magnetically encoded strips, embedded active or passive transponders and the like. Accordingly, it would be readily apparent to a person of ordinary skill in the art that the data transmitted in Petrovich does not include an operational code and comparison code component as recited by at least independent claims 2 and 7.

Notwithstanding the lack of any teaching or suggestion in either of Barri or Petrovich that infrared wireless signals are composed of a “comparison code” and a separate “operational code”, the citations also fail to teach or suggest that it is only the comparison code components of the infrared wireless signals that are transmitted first in order to determine which transmitter unit has transmitted first, and thereafter, it is only the operational code component (without the comparison code component) of the wireless signal which is transmitted for processing from the determined “first unit” to the media file reading and display apparatus.

(iii) Petrovich does not require the same degree of responsiveness to transmitted wireless signals as in the case of an interactive game.

Petrovich merely requires that the messages delivered from the central server to the communication devices are relevant to influencing the customer's purchasing behavior.

(iv) Petrovich employs a more complex technical architecture in which a "license plate" associated with a POA terminal is combined with the customer's purchase data stored in the communication device such that the combined data is transmitted to the central server for processing. Such technical features and interactions would be considered to be unduly complicated, unnecessary and disproportionately expensive for application to the type of interactive gaming system proposed by the presently claimed invention. Apart from the lack of relevance of Petrovich towards addressing the problem at hand, the practical difficulties in modifying Barri to integrate the (irrelevant) features of Petrovich would be such as to dissuade a person of ordinary skill in the art from even considering making such a combination.

Accordingly, in view of the wholly disparate nature of the technical fields of Petrovich and Barri, and the entirely different objectives sought to be met by Petrovich in contrast to the present invention, it would be fanciful to suggest that a

person of ordinary skill in the art would even consider searching and referring to the teachings of Petrovich, let alone consider combining its teachings with those of Barri so as to arrive at the inventions of at least independent claims 2 and 7.

Notwithstanding that it is unlikely that a person of ordinary skill in the art would consider combining the teachings in Petrovich with that of Barri in the first place, it is respectfully submitted that even if the teachings of Petrovich were combined with those of Barri, all the features of claims 2 and 7 would still not be evident in the combination so as to render independent claims 2 and 7 as being obvious.

(ii) Even if the teachings in Petrovich were combined with the teachings in Barri, the combination does not teach all features recited in at least independent claims 2 and 7.

Means for Resolving Simultaneous Operation

As briefly mentioned above, both Barri and Petrovich fail to disclose a means of resolving simultaneous operation of wireless transmitter units in the manner recited in claims 2 and 7.

In particular, the means for resolving as recited in claims 2 and 7 is adapted to initially receive the comparison code components of near simultaneously transmitted **infrared** wireless signals produced by the wireless signal transmitter

units during game play without initially receiving the operational codes of the wireless signals. That is, it is only the comparison code components of the infrared wireless signals transmitted first in order to make the determination as to which was the “first unit” to transmit.

The means for resolving determines a "first unit" (from amongst the at least two wireless signal transmitted units) deemed to have first transmitted an infrared wireless signal by reference to the received comparison codes of the transmitted infrared wireless signals [only].

Thereafter, upon determining the "first unit", the operational code of the wireless signal transmitted from the "first unit" is automatically transmitted for processing by the media file reading and display apparatus (p. 13, line 11 – p.14, line 2). Note, the comparison code is not transmitted with the operational code from the “first unit” for processing. This is neither taught nor suggested in either Barri or Petrovich.

In contrast, by the Examiner’s concession, Barri fails to teach the above-described feature. Whilst the Examiner has contended that such a feature is taught by Petrovich, we respectfully disagree. In fact, Petrovich does not appear to teach or suggest whatsoever that the “dataforms” in Petrovich even include a “comparison code” and an “operational code”. Moreover, even if the dataforms of

Petrovich are considered to include a “comparison code” and an “operational code”, there is no teaching or suggestion whatsoever in Petrovich of the comparison codes being transmitted initially without the operational codes. It is yet further noted that, Petrovich fails to teach that the “first unit” determined by reference to the comparison codes, automatically transmits the operational code of the “first unit” to the media file reading and display apparatus.

The absence of one of the above features from Petrovich alone would result in a *prima facie* finding of non-obviousness as it is not possible to arrive at the inventions of at least independent claims 2 and 7 by seeking to combine Barri with *non-existent* features in Petrovich.

In the present case, the clear lack of teaching or suggestion of all three features in Barri and Petrovich must result in a finding of non-obviousness of claims 2 and 7.

Single-Step Actuation and Imposed Offset Addressing

It is further noted that the operational code which is transmitted to the media file reading and display apparatus from the determined “first unit” enables a direct singlestep selection and display of a media file via imposed offset addressing wherein the direct selection and display of the media file is indicative of a game

option being made during game play without a further user input being required (p.24, line 16 – p.25, line 2, and p.26, line 15 – p.31, line 5).

Specifically, the present invention enables players to effect a game selection via a single-step actuation of the wireless signal transmitter units. That is, each comparison code of the transmitted wireless signals are received by the means for resolving in each of the wireless signal transmitter units and as they each determine which is the "first unit", the "first unit" is then able to automatically transmit only the operational code of its wireless signal for processing by the media file reading and display apparatus. Furthermore, because the operational code which is transmitted to the media file reading and display apparatus effects imposed offset addressing to a media file such that a media file may be directly retrieved and displayed which corresponds directly to a game option selected by a player operating the "first unit" with a single press of a button without any additional user inputs being required.

In contrast, the Petrovich invention is entirely silent in regard to the feature of single step actuation and imposed offset addressing.

Advantages of Claimed Invention Over Cited Prior Art

In view of the above, the presently claimed invention exhibits several advantages over the cited inventions either alone or in combination including:

(a) The present invention is more versatile in that it is capable of resolving near simultaneous transmission of both wired and infrared wireless signals. In contrast Barri alone, or when combined with Petrovich, is not able to resolve near simultaneous transmission of infrared wireless signals;

(b) The ability to resolve near simultaneous transmission of infrared wireless signals lends itself to providing a relatively cost-effective utilizing pre-existing remote control operated DVD players to play interactive games. In contrast, prior art inventions such as Barri cannot be utilised in such a manner with infrared remote controlled DVD players to play interactive games;

(c) The presently claimed invention is more efficient than Barri either alone or in combination with Petrovich in that it enables single-step actuation of the wireless transmitter units in order to effect game option selection due to the inclusion of imposed offset addressing; and

(d) Notwithstanding that the combination of Barri with Petrovich would not provide all features of the presently claimed invention, any attempt to

combine/modify/integrate the technology of Petrovich with that of Barri would be impracticably complex and inconvenient to the person skilled in the art. Moreover, such an attempted combination would introduce disproportionately complex and relatively expensive technical components beyond that required of the presently claimed invention.

Concluding Remarks

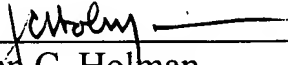
In the event that the Examiner seeks to maintain the present rejections against the claims, the Examiner is respectfully requested to provide explicit and specific reference to the cited prior art which discloses the above-described features of claims 2 and 7.

Based on the foregoing amendments and remarks, it is respectfully submitted that the present application should now be in condition for allowance. A Notice of Allowance is in order, and such favorable action and reconsideration are respectfully requested.

However, if after reviewing the above amendments and remarks, the Examiner has any questions or comments, he is cordially invited to contact the undersigned attorneys.

Respectfully submitted,

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